

### **REMARKS**

Claims 1-8 and 10-21 were pending in the current application. Applicants have amended claims 1, 13, and 16. Reexamination and reconsideration of all of the claims are respectfully requested.

#### **§103**

The Office Action rejected claims 1, 2, 7, and 13-17, including independent claims 1, 13, and 16, under 35 U.S.C. §103 based on Swift et al., U.S. Patent Publication 2002/0122585 ("Swift 1") in view of Swift et al., U.S. Patent 6,556,236 ("Swift 2"). The Office Action also rejected claims 3-6, 8-12 and 18-21 13 and 14 under 35 U.S.C. §103 based on Swift 1 in view of Swift 2 and in further view of Loveridge et al., U.S. Patent 5,982,941 ("Loveridge").

#### *Independent claim 1*

Swift 1 is a scaling design rather than a format conversion design. FIG. 6 of Swift 1 illustrates a design where a stereoscopic 3D media file is scaled, or its dimensions changed, forming "scaled" stereo media. Scaling is not format conversion as that term is understood to those skilled in the art. Scaling is simply changing the size of stereo images from one size to another size.

Swift 1 does not receive an input image at a format converter configured to receive input images in multiple formats and convert input images in different formats into images having stereoscopic formats as required by the express language of claim 1, as amended. Swift 1, as shown in, for example, FIG. 6, receives a stereoscopic 3D media file 502 and scales the left media and right media, but does not receive an input image at a format converter configured to receive images in multiple formats. At most, the Swift 1 design receives images in a single format and scales the images received.

Swift 2 and Loveridge also show no such format converter configured as claimed. Swift 2, like Swift 1, shows receipt of stereo image pairs, not images having different

formats, and thus does not receive an input image at a format converter configured to receive images in multiple formats as claimed.

Applicants further submit that claim 1, as amended, includes the phrase “a map setting forth a predefined relationship between the first format and the second stereoscopic format...” Swift 1 includes no such map, and no such map is either express or implied. The Office Action points to FIG. 4B of Swift 2 for this limitation. However, this is not a “map” as claimed, which requires the map set forth a predefined relationship between the first format and the second stereoscopic format. The Swift 2 FIG. 4 representation is simply a quantized or pixelized representation, not a mapping between a first format and a second stereoscopic format. *See, e.g.*, Swift 2, Col. 4, l. 66 – Col. 5, l. 2 (“FIG. 4B is a schematic representation showing, in greater detail, the quantized perspective image mapped on quantized projection surface (Sp) in the form of a pixelized image representation...”) This is mere pixelization, not mapping from a first format to a second stereoscopic format as claimed. Applicants submit that no map setting forth a predefined relationship between the first format and the second stereoscopic format is provided in Swift 2. For this further reason, Swift 1 and Swift 2 do not render claim 1 obvious.

As claim 1 is not obvious based on Swift 1 in view of Swift 2, all claims depending from claim 1 are also allowable as they include limitations not found in the cited references.

Applicants also dispute the combination of Swift 1 with Swift 2, or Swift 1 with Swift 2 and with Loveridge in the manner suggested. Applicants submit that there is no reasoning supporting combining Swift and Swift 2, or Swift 1 with Swift 2 and with Loveridge, and that it is only through the use of impermissible hindsight that the Applicants’ claims may be constructed from the reference and purported knowledge in the art. Such hindsight reconstruction of the invention is impermissible. *In Re Vaeck*, 947 F.2d 488 (Fed. Cir. 1991); *In Re Laskowski*, 871 F.2d 115, 117 (Fed. Cir. 1989); *see also, Ex Parte Lange*, 72 U.S.P.Q. 90, 91 (C.C.P.A. 1947).

The Patent Office must show that some reason to combine the elements with some rational underpinning that would lead an individual of ordinary skill in the art to combine the relevant teachings of the references. *KSR International Co. v. Teleflex Inc.*, No. 04-1350, 550 U.S. \_\_\_\_ (2007); *In re Fine*, 837 F.2d 1071, 1074 (Fed. Cir. 1988). Therefore, a combination of relevant teachings alone is insufficient grounds to establish obviousness, absent some reason for one of ordinary skill in the art to do so. *Fine* at 1075. In this case, the Examiner has not pointed to any cogent, supportable reason that would lead an artisan of ordinary skill in the art to come up with the claimed invention. The Examiner presents as reasoning the broad suggestion in Swift 2 that output values “can be evaluated in a massively parallel manner” (Office Action, p. 4), and the statement in Loveridge of “to achieve improved performance characteristics, such as reduced noise...” (Office Action, pp. 7 and 11), which are generic statements of overarching desired results, and in reality form no reason supporting combining the references.

None of the references, alone or in combination, teaches the unique features called for in the claims. It is impermissible hindsight reasoning to pick a feature here and there from among the references to construct a hypothetical combination which obviates the claims.

It is impermissible, however, simply to engage in a hindsight reconstruction of the claimed invention, using the applicant’s structure as a template and selecting elements from references to fill the gaps. [*citation omitted*]

*In re Gordon*, 18 USPQ.2d 1885, 1888 (Fed. Cir. 1991).

A large number of devices may exist in the prior art where, if the prior art be disregarded as to its content, purpose, mode of operation and general context, the several elements claimed by the applicant, if taken individually, may be disclosed. However, the important thing to recognize is that the reason for combining these elements in any way to meet Applicants’ claims only becomes obvious, if at all, when considered from hindsight in the light of the application disclosure. The Federal Circuit has stressed that

the “decisionmaker must step backward in time and into the shoes worn by a person having ordinary skill in the art when the invention was unknown and just before it was made.” *Panduit Corp. v. Dennison Mfg. Co.*, 810 F.2d 1561, 1566 (Fed. Cir. 1987). To do otherwise would be to apply hindsight reconstruction, which has been strongly discouraged by the Federal Circuit. *Id.* at 1568.

To imbue one of ordinary skill in the art with knowledge of the invention in suit, when no prior art reference or references of record convey or suggest that knowledge, is to fall victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its teacher.

*W.L. Gore & Assoc. v. Garlock, Inc.*, 721 F.2d 1540, 1553 (Fed. Cir. 1983). Therefore, without some reason in the references to combine the cited prior art teachings, with some rational underpinnings for such a reason, an Examiner’s conclusory statements in support of the alleged combination fail to establish a prima facie case for obviousness. *See, KSR International Co. v. Teleflex Inc.*, No. 04-1350, 550 U.S. \_\_\_\_ (2007) (obviousness determination requires looking at “whether there was an apparent reason to combine the known elements in the fashion claimed...”, *citing In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006) (“[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness,” *KSR* at 14).

Simply stating that the invention would have been obvious to a person of ordinary skill is also insufficient, for the assertion must be supported by clear and convincing evidence. *Panduit, supra*, 810 F.2d at 1568. The Office Action merely states that the invention would be obvious in light of the proposed combination, and did not provide clear and convincing evidence or reasoning to support this assertion.

The Examiner has failed to avoid the effects of hindsight reasoning in fashioning the alleged combination of references and general knowledge in the art, presents no reasons having rational underpinnings in support of the combination, and for these further

reasons claim 1 is allowable. All claims depending from allowable claim 1 are allowable as they include limitations not found in the cited references, alone or in combination.

*Independent Claims 13 and 16*

Applicants have amended claims 13 and 16 to recite “a processor configured to receive images in multiple formats and convert images received in multiple formats into images in stereoscopic format and further configured to identify the first format...” (claim 13) and “receiving the input image in the first stereoscopic format at a multiple format image converter configured to receive input images in different stereoscopic formats and convert input images in various stereoscopic formats into images having different stereoscopic formats...” (claim 16).

As noted above, Swift 1 does not include a design configured to receive images in multiple formats as claimed. With respect to claim 16 in particular, which speaks of receipt of images in multiple *stereoscopic* formats, Swift 2 does not receive an input image in the first *stereoscopic* format at a multiple format image converter configured to receive input images in different *stereoscopic* formats and convert input images in various *stereoscopic* formats into images having *different stereoscopic formats*. Swift 1 does not do this, nor Swift 1, and Loveridge also show no such design. As a result, independent claims 13 and 16 are not obvious based on Swift 1, Swift 2, and/or Loveridge, alone or in combination. Claims depending from allowable claims 13 and 16 are allowable as they include limitations not present in the cited references, alone or in combination.

Applicants dispute the combination of Swift 1, Swift 2, and Loveridge as discussed above with respect to claim 1.

Accordingly, it is respectfully submitted that all pending claims fully comply with 35 U.S.C. § 103.

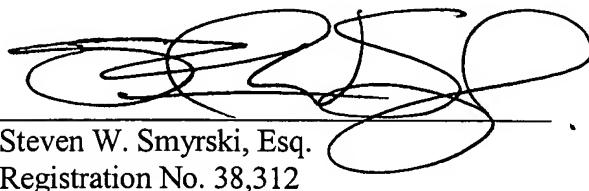
**CONCLUSION**

In view of the foregoing, it is respectfully submitted that all claims of the present application are in condition for allowance. Reconsideration of all of the claims, as amended, is respectfully requested and allowance of all pending claims at an early date is solicited.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Applicants believe that no fees are due in accordance with this Amendment beyond those included herewith. Should any additional fees be due, the Commissioner is hereby authorized to charge any deficiencies or credit any overpayment to Deposit Account 502026.

Respectfully submitted,

  
Steven W. Smyrski, Esq.  
Registration No. 38,312

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SMYRSKI LAW GROUP, A PROFESSIONAL CORPORATION  
3310 Airport Avenue, SW  
Santa Monica, California 90405-6118  
Phone: 310.397.9118  
Fax: 310.397.9158

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